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PTO/SB/21 (02-09)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/781,395
Filing Date	February 18, 2004
First Named Inventor	John H. Gillen
Art Unit	3634
Examiner Name	Jerry E. Redman
Attorney Docket Number	1-15972

ENCLOSURES *(Check all that apply)*

- [x] Fee Transmittal Form
- [x] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [x] Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please Identify below):

Return Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MARSHALL & MELHORN LLC		
Signature	Stephen G. Kimmet		
Printed name	Stephen G. Kimmet		
Date	03/12/09	Reg. No.	52,488

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Signature	Roberta A. Winzeler		
Typed or printed name	Roberta A. Winzeler	Date	3-12-2009

PTO/SB/17 (10-08)
Approved for use through 06/30/2010. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2009

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 540.00

Complete if Known	
Application Number	10/781,395
Filing Date	February 18, 2004
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Art Unit	3634
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METHOD OF PAYMENT (check all that apply)

☑ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 13-1816 Deposit Account Name: MARSHALL & MELHORN LLC

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
		Small Entity		Small Entity		Small Entity	
Application Type	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fees Paid ($)
Utility	330	165	540	270	220	110	
Design	220	110	100	50	140	70	
Plant	220	110	330	165	170	85	
Reissue	330	165	540	270	650	325	
Provisional	220	110	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	52	26
Each independent claim over 3 (including Reissues)	220	110
Multiple dependent claims	390	195

Total Claims		Extra Claims		Fee ($)		Fee Paid ($)
_____	- 20 or HP =	_____	x	_____	=	_____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims		Extra Claims		Fee ($)		Fee Paid ($)
_____	- 3 or HP =	_____	x	_____	=	_____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims	
Fee ($)	Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $270 ($135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof		Fee ($)		Fee Paid ($)
_____	- 100 =	_____	/ 50 =	_____	(round up to a whole number) x	_____	=	_____

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): Appeal Brief $540	540

SUBMITTED BY

Signature	Stephen G. Kimmet	Registration No. (Attorney/Agent) 52,488	Telephone 419-249-7100
Name (Print/Type)	Stephen G. Kimmet		Date March 12, 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: John H. Gillen	)	Group Art Unit: 3634
Serial No.: 10/781,395	)	Examiner: Jerry E. Redman
Filing Date: February 18, 2004	)	Attorney Docket: 1-15972
For: POWERED SLIDER DRIVE INTERFACE AND DRIVE ASSEMBLY	)	

February 12, 2009

MAIL STOP APPEAL BRIEF – PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Honorable Sir:

This brief is in furtherance of the Notice of Appeal, in connection with the above-captioned application, which was mailed on January 9, 2009 and was received in the U.S. Patent and Trademark Office on January 12, 2009.

The fees set forth in 37 CFR 41.20(b)(2) are being submitted herewith.

Table of Contents

1. Real Party in Interest

The real party in interest is Pilkington North America, Inc., which is a wholly owned subsidiary of Pilkington Group Limited of Great Britain, which in turn is a wholly owned subsidiary of Nippon Sheet Glass Co. Limited of Japan. The assignment to Pilkington North America, Inc. was recorded on February 18, 2004, at reel 015003, frame 0342.

2. Related Appeals and Interferences

There is no known related appeal or interference that will directly affect or be directly affected by, or have a bearing on, the Board's decision in this Appeal.

3. Status of Claims

The status of each of the claims is as follows:

1) Claims canceled: None

2) Claims withdrawn from consideration but not canceled: None

3) Claims pending: 1-16

4) Claims allowed: None

5) Claims objected to: None

6) Claims rejected: 1-16

Claims on appeal are 1-16. A copy of the claims on file is submitted in the attached Claims Appendix.

4. Status of Amendments

No Amendment was filed subsequent to issuance of the final Office Action dated October 9, 2008.

5. Summary of Claimed Subject Matter

The present invention, as set forth in independent claim 1, defines a powered slider drive interface 20 (see, for example, page 4, lines 19-21 and Figs. 1 and 4) for opening and closing a vehicle slider panel 46 across a window aperture (see, for example, Figs. 1 and 4), comprising a slider panel 46 (see, for example, page 4, line 27 and Fig. 1); a regulator 28 (see, for example, page 4, line 25 and Fig. 1); at least first and second mechanical stops 22, 22a, 22b, 34, 34a, 34b (see, for example, page 4, line 21-26 and Fig. 1) mounted on the slider panel 46 or the regulator 28, both first and second stops 22, 22a, 22b, 34, 34a, 34b having a contact surface 24, 26, 36, 38 (see, for example, page 4, lines 23-26 and Figs. 1-2A); and one or more mechanical stops 22, 22a, 22b, 34, 34a, 34b (see, for example, Figs. 2B-2C) mounted on the other of the slider

panel 46 or the regulator 28, the one or more stops 22, 22a, 22b, 34, 34a, 34b having third and fourth contact surfaces 24, 26, 36, 38; wherein when the regulator 28 is caused to move in a first direction the first stop contact surface 36 is brought into mechanical contact with the third contact surface 24, thus urging the slider panel 46 into an open position (see, for example, page 5, lines 10-12) at which there is a space between the second stop contact surface 38 and the fourth stop contact surface 26 (see, for example, Figs. 1 and 2A-2C); further wherein when the regulator 28 is caused to move in a second direction, the second stop contact surface 38 is brought into mechanical contact with the fourth contact surface 26, thus urging the slider panel 46 into a closed position (see, for example, page 5, lines 12-14) at which there is a space between the first stop contact surface 36 and the third stop contact surface 24 (see, for example, Figs. 1 and 2A-2C).

The present invention, as set forth in independent claim 6, defines a powered slider drive interface 20 (see, for example, page 4, lines 19-21 and Figs. 1 and 4) for opening and closing a vehicle slider panel 46 across a window aperture (see, for example, Figs. 1 and 4), comprising a driver bracket 22, 22a, 22b (see, for example, page 4, line 22 and Figs. 1, 2A-B, and 4) including at least first and second contact surfaces 24, 26 (see, for example, page 4, line 24 and Figs. 1 and 2A-B), the driver bracket 22,

22a, 22b being disposed on a regulator 28 (see, for example, page 4, lines 24-25 and Figs. 1 and 2A-B); and a driver receiver 34, 34a, 34b (see, for example, page 4, lines 25-26 and Figs. 1 and 2A-B) including at least two stops 34, 34a, 34b (see, for example, page 7, line 25 to page 8, line 2 and Figs. 1 and 2A-B), each having a contact surface 36, 38 (see, for example, page 7, line 25 to page 8, line 2 and Figs. 1 and 2A-B), the driver receiver 34, 34a, 34b being disposed on the slider panel 46 (see, for example, page 4, lines 26-27 and Figs. 1 and 2A); wherein when the regulator 28 is caused to move in a first direction, the bracket first contact surface 24 is brought into mechanical contact with the first receiver contact surface 36, thus urging the slider panel 46 into an open position (see, for example, page 5, lines 10-12 and Figs. 1 and 2A) at which there is a space between the bracket second contact surface 26 and the second receiver contact surface 38 (see, for example, Figs. 1 and 2A-2C); and further wherein when the regulator 28 is caused to move in a second direction, the bracket second contact surface 26 is brought into mechanical contact with the second receiver contact surface 38, thus urging the slider panel 46 into a closed position (see, for example, page 5, lines 12-14 and Figs. 1 and 2A) at which there is a space between the first contact surface 24 and the first receiver contact surface 36 (see, for example, Figs. 1 and 2A-2C).

The present invention, as set forth in independent claim 7, defines a powered slider drive assembly 20 (see, for example, page 4, lines 19-21 and Figs. 1 and 4) for opening and closing a vehicle slider panel 46 across a window aperture (see, for example, Figs. 1 and 4), comprising a driver bracket 22, 22a, 22b (see, for example, page 4, line 22 and Figs. 1, 2A-B, and 4) including at least a first contact surface 24 (see, for example, page 4, line 24 and Figs. 1 and 2A-B) and a second contact surface 26 (see, for example, page 4, line 24 and Figs. 1 and 2A-B), the driver bracket 22, 22a, 22b being disposed on a regulator 28 (see, for example, page 4, lines 24-25 and Figs. 1 and 2A-B) having a cable 32 (see, for example, page 5, lines 7-10 and Figs. 1 and 2A-B) attached thereto, and the regulator 28 being disposed on a powered slider frame 31 (see, for example, page 5, lines 15-17 and Figs. 1 and 2A-B); and a driver receiver 34, 34a, 34b (see, for example, page 4, lines 25-26 and Figs. 1 and 2A-B) including at least a first receiver stop and a second receiver stop 34, 34a, 34b, each having a contact surface 36, 38, the driver receiver 34, 34a, 34b being disposed on the slider panel 46 (see, for example, page 4, lines 25-27 and Figs. 1 and 2A-B) that is disposed in slider tracks 54 which are positioned above and below the slider panel 46 (see, for example, page 5, lines 23-27 and Figs. 1 and 2A-B); wherein when a powered slider controller urges the cable

32 into a first direction, the first driver bracket contact surface 24 is brought into mechanical contact with the first receiver contact surface 36, thus urging the slider panel in the slider tracks 54 and opening at least a portion of the window aperture (see, for example, page 5, lines 10-12 and Figs. 1 and 2A) at which there is a space between the second driver bracket contact surface 26 and the second receiver contact surface 36 (see, for example, Figs. 1 and 2A-2C); further wherein when the powered slider controller urges the cable 32 into a second direction, the second driver bracket contact surface 26 is brought into mechanical contact with the second receiver contact surface 38, thus urging the slider panel 46 in the slider tracks 54 and closing at least a portion of the window aperture (see, for example, page 5, lines 12-14 and Figs. 1 and 2A) at which there is a space between the first driver bracket contact surface 24 and the first receiver contact surface 36 (see, for example, Figs. 1 and 2A-2C).

The present invention, as set forth in independent claim 12, defines a slider panel assembly 40 (see, for example, page 5, line 23 and Figs. 1 and 4), comprising a slider panel 46 (see, for example, page 5, lines 25-26 and Figs. 1 and 4) having a horizontal slider panel edge (see, for example, Figs. 1, 2A-C, and 4); and a driver receiver 34, 34a, 34b (see, for example, page 7, line 21 to page 8, line 2, and Figs. 1, 2A-C, and 4)

including at least two receiver stops 34, 34a, 34b, the receiver stops 34, 34a, 34b being spaced apart from each other, each receiver stop 34, 34a, 34b having a contact surface 36, 38 (see, for example, Figs. 1, 2A-C, and 4), and the driver receiver 34, 34a, 34b (see, for example, Figs. 1, 2A-C, and 4) being disposed on the slider panel 46 and parallel to the horizontal slider panel edge (see, for example, Figs. 1, 2A-C, and 4); wherein when a first external contact surface 24 is brought into mechanical contact with the first receiver stop contact surface 36 there is a space between a second external contact surface 26 and the second receiver contact surface 38, and when the second external contact surface 26 is brought into mechanical contact with the second receiver contact surface 38 there is a space between the first external contact surface 24 and the first receiver contact surface 36 (see, for example, Figs. 1 and 2A-2C), thus the slider panel 46 is capable of horizontally (see, for example, Figs. 1, 2A-C, and 4) opening and closing a window aperture in a vehicle backlite (see, for example, page 5, lines 12-14 and Figs. 1 and 2A).

The present invention, as set forth in independent claim 14, defines a powered slider drive interface 20 (see, for example, page 4, lines 19-21 and Figs. 1 and 4) for opening and closing a vehicle slider panel 46 (see, for example, page 4, lines 19-21 and

Figs. 1 and 4) across a vehicle backlite (see, for example, page 1, lines 14-19) window aperture (see, for example, page 4, lines 19-21 and Figs. 1 and 4), comprising a slider panel 46 (see, for example, page 4, line 27 and Fig. 1); a regulator 28 (see, for example, page 4, lines 24-25 and Figs. 1 and 2A-B); a first slider panel stop 34, 34a, 34b (see, for example, page 4, lines 25-26 and Figs. 1) having a first contact surface 36 (see, for example, page 7, line 25 to page 8, line 2 and Figs. 1 and 2A-B) and a second slider panel stop 34, 34a, 34b (see, for example, page 7, line 25 to page 8, line 2 and Figs. 1 and 2A-B) having a second contact surface 38 (see, for example, page 7, line 25 to page 8, line 2 and Figs. 1 and 2A-B), each slider panel stop 34, 34a, 34b mounted on the slider panel 46 (see, for example, page 4, lines 26-27 and Figs. 1 and 2A-B); and a regulator stop 22, 22a, 22b (see, for example, page 4, line 22 and Figs. 1, 2A-B, and 4) having a third and a fourth contact surface 24, 26 (see, for example, page 4, line 24 and Figs. 1, 2A-B), the regulator stop 22, 22a, 22b mounted on the regulator 28 (see, for example, page 4, line 24-25 and Figs. 1 and 2A-B); wherein when the regulator 28 is urged horizontally in a first direction (see, for example, Figs. 1, 2A-B, and 4), the first stop contact surface 36 is brought into mechanical contact with the third contact surface 24 (see, for example, Figs. 1, 2A-B, and 4) and there is a space between the second stop

contact surface 38 and the fourth stop contact surface 26 (see, for example, Figs. 1 and 2A-2C), thereby opening a vehicle backlite window aperture (see, for example, page 5, line 10-12 and Figs. 1 and 2A-B); further wherein when the regulator is urged horizontally in a second direction, the second stop contact surface 38 is brought into mechanical contact with the fourth contact surface 26 and there is a space between the first stop contact surface 36 and the third stop contact surface 24 (see, for example, Figs. 1 and 2A-2C), thereby closing a vehicle backlite window aperture (see, for example, page 5, lines 12-14 and Figs. 1 and 2A).

6. Grounds of Rejection to be Reviewed on Appeal

The issues for appeal are:

A) Claims 1, 2, 6-8, 12, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Koneval et al., U.S. Patent No. 6,324,788 (hereinafter, Koneval).

B) Claims 3-5, 9-11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koneval in view of MacMillan, U.S. Patent No. 6,435,636 (hereinafter, MacMillan) and Hirsch et al. U.S. Patent No. 6,207,911 (hereinafter, Hirsch).

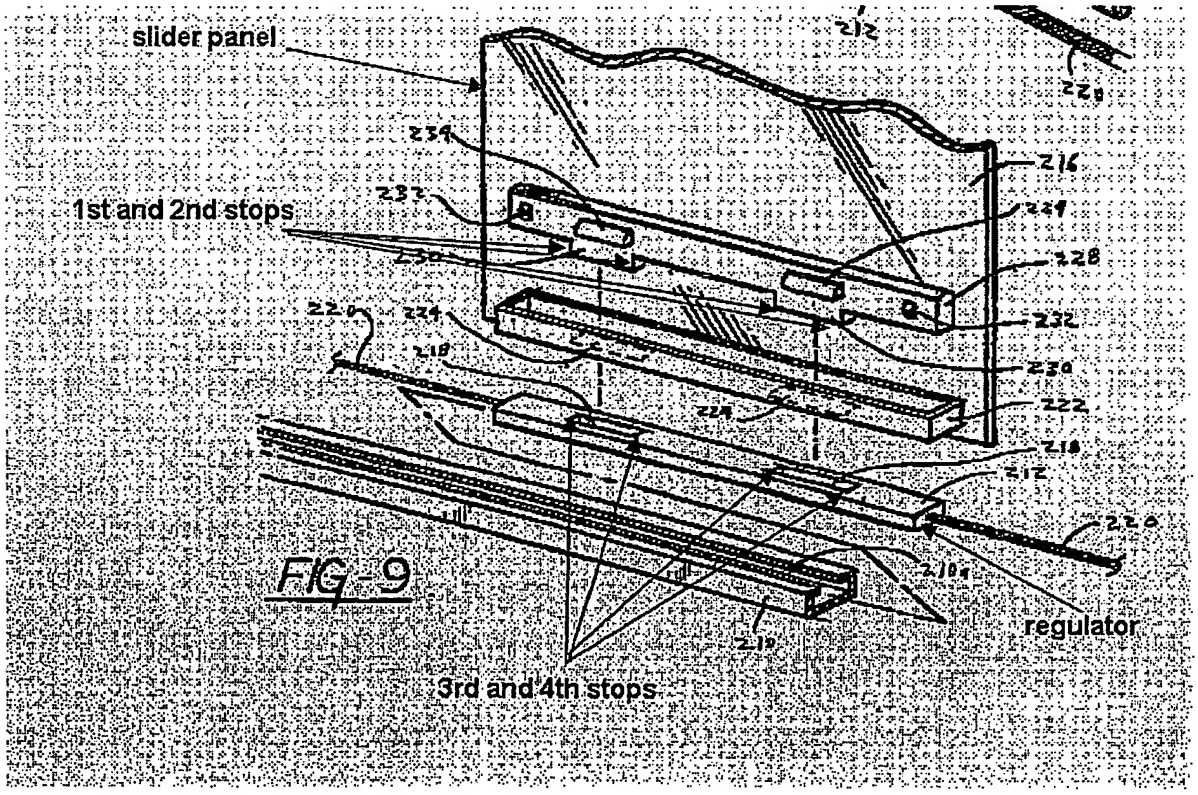
7. Argument

A1) Claims 1, 6-7, 12, and 14-16 are not anticipated by Koneval.

Appellant traverses the rejection of independent claims 1, 6, 7, 12, and 14, and claims 15-16 that directly or indirectly depend therefrom, as being anticipated by Koneval. "[A] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)). Put another way, for there to be anticipation, "the identical invention must be shown in as complete detail as it is contained in the ...claim." *Richardson v. Suzuki Motor Co.* 9 USPQ 2d 1913, 1920 (Fed Cir. 1989).

The Examiner asserts that, as shown in Figure 9 below, Koneval discloses a powered slider drive interface for opening and closing a vehicle slider panel (216) across a window aperture of a back-lite of a vehicle (see figure 1 for the vehicle and back-lite) comprising a slider panel (216), a regulator/driver bracket (212), at least\first, second, third, and fourth mechanical stops mounted on the slider panel (216) and the regulator (212), slider/guide tracks (210/18, column 3, line 41) positioned above and below the slider panel (216), a cable (220) mounted on each end of the regulator/driver bracket (212) such that as the electric reversible motor (24) drives the cable (220) to and fro, the stops are brought into mechanical contact with one another to thereby move the sliding

panel (216) across the opening/aperture of a vehicle back-lite. The Examiner then asserts that Koneval et al. further discloses the slider panel (216) [has] as being *removable* and therefore there has to be some "space" between the stops (shown below) from the projections (230) and the mounting slots (218) (as shown below, column 6, lines 24-48) (emphasis added).



Independent claim 1 requires the limitations, among others, that when a regulator (i.e., attached to a slider panel) is caused to move in a first direction (e.g., the slider panel is moved to an open position), the first stop contact surface on a mechanical driver bracket (stop) is brought into mechanical contact with the third contact surface, thus urging the slider panel into an open position at which there **is a space** between the second stop contact surface and the fourth stop contact surface. Conversely, when the regulator is caused to move in a second direction, the second stop contact surface is brought into mechanical contact with the fourth contact surface at which there is **a space** between the first stop contact surface and the third stop contact surface, thus urging the slider panel into a closed position. Koneval does not teach these limitations.

As Appellant clearly disclosed at page 6, lines 6-19, which is shown below, the spaces are significant since they allow for selectively non-attached pushing or pulling that in turn allows for substantial misalignment between the regulator and the slider panel. In this passage, Appellant even specifically stated that this was a substantial improvement over the rigid attachment of Koneval.

> "As shown in Fig. 1, the interface between the driver contact surfaces 24, 26 and the receiver contact surfaces 36, 38 is not a **rigid attachment**, as in U.S. Patent No. 6,119,401 to Lin et al. and U.S. Patent

No. 6,324,788 to **Koneval** et al. Also, the driver bracket 22 is free to move between a portion of the **space** between each of the receiver contact surfaces 36, 38, wherein one of the driver contact surfaces 24, 26 will make selectively non-attached pushing or pulling mechanical contact with its corresponding receiver contact surface 36, 38. This contact allows for substantial misalignment, for example, between the regulator 28 and the slider panel 46, since varying portions of the driver contact surfaces 24, 26 and the receiver contact surfaces 36, 38 can make contact with each other" (emphasis added).

Nothing in Koneval suggests any space. Instead, when the Koneval device is power driven, as claims 1, 6-7, 12, and 14-16 require, it is rigidly assembled (see, for example, column 6, lines 32-37). In fact, the Examiner alludes to this where he states that the slider panel is *removable* and Koneval's Title and Abstract confirm this where the Koneval device is referred to be detachable in order to become manually operated ("*detachable* from the carrier block to permit manual movement of sliding pane 216," see column 6, lines 6-8 and Figs. 9-10) (emphasis added). This detachability is the purpose of the Koneval device.

Even if some space existed between the stops and their corresponding projections and mounting slots, as the Examiner asserts, there is nothing in Koneval to suggest any

relative movement therebetween. If the Koneval device has a space between the stops and their corresponding projections and mounting slots when moved in a first direction, those ***same*** spaces or no spaces between the stops and their corresponding projections and mounting slots remain when the Koneval device is moved in a second direction (see, for example, Figs. 9-10 and column 2, lines 30-34, where it teaches that the "tabs and carrier block preferably have complemental detent means for achieving a positive engagement therebetween" (emphasis added)). Further, Koneval teaches that the "powered movement of carrier block 212 along guide rail 210 is *positively transferred* to sliding pane 216" (see column 6, lines 34-36 and Figs. 9-10) (emphasis added). Thus, Koneval teaches that there is no relative movement between his stops and their corresponding projections and mounting slots.

Similarly, independent claim 6 at least requires the limitations that when a regulator is caused to move in a first direction, the bracket first contact is brought into mechanical contact with the first receiver contact surface, thus urging the slider panel into an open position at which there **is a space** between the bracket second contact surface and the second receiver contact surface. Conversely, when the regulator is caused to move in a second direction, the bracket second contact surface is brought into mechanical contact with the second receiver contact surface at which there is **a space** between the bracket first contact surface and the first receiver contact surface, thus urging the slider panel into

a closed position. Koneval, does not teach these limitations for the reasons given above for claim 1.

Similarly, independent claim 7 at least requires the limitations that when a powered slider controller urges the cable to move in a first direction, the first driver bracket contact is brought into mechanical contact with the first receiver contact surface, thus urging the slider panel into an open position at which there **is a space** between the second driver bracket contact surface and the second receiver contact surface. Conversely, when the powered slider controller urges the cable to move in a second direction, the second driver bracket contact surface is brought into mechanical contact with the second receiver contact surface at which there is **a space** between the first driver bracket contact surface and the first receiver contact surface, thus urging the slider panel into a closed position. Koneval, does not teach these limitations for the reasons given above for claim 1.

Similarly, independent claim 12 at least requires the limitations that when a first external contact surface is brought into mechanical contact with a first receiver stop contact surface there **is a space** between the second external contact surface and the second receiver contact surface. Conversely, when the second external contact surface is brought into mechanical contact with the second receiver contact surface there is **a space** between the first external contact surface and the first receiver contact surface, thus the slider panel is capable of horizontally opening and closing a window aperture in a

vehicle backlite. Koneval, does not teach these limitations for the reasons given above for claim 1.

Similarly, independent claim 14 at least requires the limitations that when a regulator is urged horizontally in a first direction, the first stop contact surface is brought into mechanical contact with the third contact surface, thereby opening a vehicle backlite window aperture at which there **is a space** between the second stop contact surface and the fourth stop contact surface. Conversely, when the regulator is urged horizontally in a second direction, the second stop contact surface is brought into mechanical contact with the fourth contact surface at which there is **a space** between the first stop contact surface and the third stop contact surface, thereby closing a vehicle backlite window aperture. Koneval, does not teach these limitations for the reasons given above for claim 1.

Put another way, when the Koneval device is rigidly assembled for powered movement of the carrier block, the same dimensional relationships (spaces/no spaces) between the stops, projections, and mounting slots *stay the same* for Koneval, no matter if the slider panel is opened or closed. As a consequence, Koneval does not have contact surfaces. In the claimed invention, the spaces/no spaces change when the slider panel opens and then closes, where the contact surfaces are brought into mechanical contact, as claims 1, 6-7, 12, and 14-16 require.

As each and every element of independent claims 1, 6, 7, 12, and 14, and claims 15-16 that directly or indirectly depend therefrom, are not disclosed by Koneval, then the

rejections of claims 1, 6, 7, 12, and 14-16 under 35 USC §102(b) are improper. Therefore, claims 1, 6, 7, 12, and 14-16 are patentable over Koneval and Appellant respectfully requests that the Board overturn these rejections of claims 1, 6, 7, 12, and 14-16.

A2) Claims 2 and 8 are not anticipated by Koneval.

Since independent claims 1 and 7 are patentable, then claims 2 and 8, which respectively depend directly therefrom, are also patentable, at least on this basis.

Appellant traverses the rejection of independent claims 2 and 8 as being anticipated by Koneval. "[A] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)). Put another way, for there to be anticipation, "the identical invention must be shown in as complete detail as it is contained in the ...claim." *Richardson v. Suzuki Motor Co.* 9 USPQ 2d 1913, 1920 (Fed Cir. 1989).

Although the Examiner does not specifically contest claims 2 and 8 in the Office Action of October 9, 2008, which, at least require the limitation that the first and second mechanical stops (driver bracket and driver receiver) are oppositely inclined to one another, Koneval does **not** teach these limitations.

Instead, Koneval, as illustrated in Fig. 9 (upon which the Examiner relies), teaches that the tabs and slots are *vertically disposed* to one another and that when the slider 216 is driven by the regulator 212, the engagement tabs 230 are engaged with slots 218 for *positive* movement in rail 210. In the claimed invention, however, the shifting from space to no space between the stops and its corresponding contact surfaces is important, since it allows for substantial misalignment between the stops and contact surface (see, for example, page 6, lines 15-19). Nowhere does Koneval either expressly or inherently described these limitations, as claims 2 and 8 require.

As each and every element of independent claims 2 and 8 are not disclosed by Koneval, then the rejections of claims 2 and 8 under 35 USC §102(b) are improper. Therefore, claims 2 and 8 are patentable over Koneval and Appellant respectfully requests that the Board overturn these rejections of claims 2 and 8.

B. Claims 3-5, 9-11, and 13 are patentable over Koneval in view of MacMillan and Hirsch.

Since independent claims 1, 7, and 12, are patentable, then claims 3-5, 9-11, and 13, which directly or indirectly depend therefrom, are also patentable, at least on this basis.

Further, Appellant traverses these rejections of claims 3-5, 9-11, and 13 by asserting that, "Rejections on obviousness grounds cannot be sustained by mere

conclusory statements." *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (U.S. 2007) (citing *In re Kahn*, 78 USPQ2d 1329 (Fed. Cir. 2006)). The mere allegation that the differences between the claimed subject matter and the prior art are obvious does not create a presumption of unpatentability. See *In re Soli*, 137 USPQ 797 (CCPA 1963).

The Examiner asserts that all of the elements of the instant invention are discussed in detail above except providing an EPDM plastic bumper and MacMillan discloses a plastic bumper combination thereof. Further, the Examiner asserts that Hirsch teaches that EPDM is a durable and energy absorbing bumper material, suitable for use in automobiles. In support of these positions, the Examiner cites the following:

> Preferably, the bumper body is formed of a flexibly resilient and semi-rigid material appropriate for the door-stopping function thereof, such as, e.g., rubber or a suitable elastomer. A preferred material for the bumper body is an EPDM (ethylene propylene diene monomer) elastomer.

> The bumper body **16** is formed of a resilient yet semi-rigid material, which may be rubber or a durable elastomer. A preferred material for the bumper body is an EPDM (ethylene propylene diene monomer) elastomer. The bumper body **16** is of a strength and thickness sufficient to make it durable enough to serve as a door stop, or energy absorbing damper, when in place in a vehicle.

The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide Koneval with a plastic bumper as taught by MacMillan and Hirsch, since an EPDM bumper *allows a smooth transition between starting and stopping of an element which is slide [sliding] in a track* (emphasis added).

However, for there to be a "smooth transition between starting and stopping," as the Examiner asserts, for any combination of Koneval/MacMillan/Hirsch, then there must a space that alternates as the slider panel opens and closes across the window aperture. Since Koneval is of a rigid construction and the engagement tabs are "fully seated," when "*positively transferring*" the sliding pane (see, column 6, lines 31-37), then Koneval has no space that alternates between the stops and contact surfaces while opening and closing the aperture, as independent claims 1, 6, 7, 12, and 14, and their dependent claims 3-5, 9-11, and 13 require.

In addition, since the Koneval device has no space (and conversely has no contact surface) that alternates, as a result of opening and closing the slider pane, then Koneval has no need for bumpers as claims 3-5, 9-11, and 13. Therefore, it follows that Koneval could not bring bumpers made like those of MacMillan and Hirsch "into mechanical contact" in the alternating directions (opening/closing) as required by the claimed invention. Thus, any combination of Koneval, MacMillan, and/or Hirsch is not a valid 103 reference.

As stated earlier, the only time that the Koneval device is not rigidly assembled is when it functions in a manual mode (as opposed to a powered drive device which claims 1-11 and 14-16 require). At, for example, column 6, lines 6-8 and in Figs. 9-10, it teaches that the Koneval device is "*detachable* from the carrier block to permit manual movement of sliding pane 216" (emphasis added). In contrast, in the powered drive mode, Koneval may have a space or may have no space between the stops and their corresponding projections and mounting slots when moved in a first direction, but then, when the Koneval device is moved in a second direction, the ***same*** spaces or no spaces between the stops and their corresponding projections and mounting slots remain (see, for example, column 2, lines 31-33 and in Figs. 9-10).

In other words, when the Koneval device is rigidly assembled for powered movement of the carrier block, the same dimensional relationships (spaces/no spaces) between the stops, projections, and mounting slots *stay the same*, no matter if the slider panel is opened or closed. As a consequence, Koneval has no contact surfaces. In the claimed invention, the spaces/no spaces change when the slider panel opens and then closes, where the contact surfaces are brought into mechanical contact, as claims 1, 2, 6-8, 12, and 14-16 require.

Regarding MacMillan and Hirsch, who respectively teach a doorstopping bumper and a automobile bumper, neither of these references do anything to overcome the above stated shortcomings of Koneval, since neither MacMillan nor Hirsch teaches the

movement of one bumper on a contact surface of a stop making contact with a bumper/contact surface when moved in one direction and then the movement of another bumper on a contact surface of another stop making contact with a bumper/another contact surface when moved in a second direction.

In the Remarks section of the Office Action of October 9, 2008 (pages 4-5) the Examiner made the following remarks regarding spaces between the stops and contact surfaces associated with the opening and closing of the slider panel:

> The applicant's arguments have been considered but are not deemed persuasive. The applicant argues that as the claims are currently amended, a "space" is provided between the stops during sliding movement. Since the panel is taught be engaged and disengaged (elements 230 and 218) from one another, a space is provided between the projections and the slots which enables the panel to be disengaged. The applicant has claimed this "magical space" but has yet to provide specifics of the space, i.e., the amount of space. *Space* is defined as "the unlimited or incalculably great three-dimensional realm or expanse in which all material objects are located and all events occur" (www.dictionary.com). Therefore, broadly recited, there is "space" between elements 230 and 218 when in the engaged position.

In response to these assertions, Appellant finds that the Examiner is inferring that Koneval is satisfying the claim limitations where the Examiner states that "the panel is taught [to] be engaged and disengaged ... from one another." However, Koneval is not

referring to the slider panel being opened or closed but is instead describing the means by which the Koneval device is converted from a *powered* slider interface to a *manually* operated position (see, for example, Title) or vice versa.

Secondly, Appellant has never referred to nor claimed that the spaces that exist between the stops and the contact surfaces were "magical," as the Examiner asserts above at the arrow. Instead, Appellant has consistently stated that the driver brackets/stops are free to move between the receiver contact surfaces, where non-attached pushing and pulling mechanical contact is made (shown at the arrow below). This is confirmed by at least Figs. 1, 2A and 2B and by the instant disclosure at page 6, lines 10-19 that Appellant has quoted several times in previous Amendments/Responses and which is again stated here:

> "Also, the driver bracket 22 is free to move between a portion of the space between each of the receiver contact surfaces 36, 38, wherein one of the driver contact surfaces 24, 26 will make selectively non-attached pushing or pulling mechanical contact with its corresponding receiver contact surface 36, 38. This contact allows for substantial misalignment, for example, between the regulator 28 and the slider panel 46, since varying portions of the driver contact surfaces 24, 26 and the receiver contact surfaces 36, 38 can make contact with each other."

By focusing on a space provided by Koneval switching from manual to automatic or vice versa, instead of focusing on Koneval's lack of free movement of a driver between contact surfaces of a receiver, the Examiner is returning to a position that was taken earlier in the prosecution of the subject application. After Appellant filed an election in response to a Restriction/election requirement, the Examiner left only claims 12-13 to the slider panel but no claims to the powered slider drive interface. Then, the Examiner took the position that the figures in the subject application did not illustrate a space between the bracket and the receiver contact surfaces. The Examiner stated that Appellant was required to file a Petition to the Director (which is of record) to reinstate the drawings and to reinstate claims 1-11 and 14-16 which are drawn to a powered slider drive interface. This process extended prosecution by two years. As a consequence, Director Wynn Coggins granted Appellant's Petition wherein a first Appeal Brief (which was only to the slider panel assembly) was vacated, all of the claims were rejoined, and the Examiner was instructed to reissue a new non-final Office Action addressing all of Appellant's claims 1-16.

Below is the portion of the Decision that refers to claim 1 where Director Coggins, for example, states that "the stops have contact surfaces that are mechanical, non-attaching pushing or pulling surfaces" (see arrow).

Now, looking at the claims as originally filed, it can be seen that claim 1 claims a powered slider drive interface having at least first and second mechanical stops mounted on the slider panel **OR** the regulator, both first and second stops having a contact surface, and **one or more** mechanical stops mounted on **THE OTHER** of the slider panel or the regulator, the one or more stops having third and fourth contact surfaces. Therefore, the limitations of claim 1 read on all of the disclosed species because all of the species, as pointed out above, have either two stops on the slider panel and two stops on the regulator, two stops on the slider panel and one stop on the regulator, or one stop on the slider panel and two stops on the regulator. Therefore, claim 1 is generic to all of the disclosed species and should not have been withdrawn from consideration. Likewise, claims 2-5 also contain limitations that are generic to all of the disclosed species because all of the stops have contact surfaces that are mechanical, non-attaching pushing or pulling surfaces (claim 2), they could all have bumpers (claim 3), wherein the bumpers, contact surfaces or stops could be plastic (claim 4), and wherein the plastic is selected from the groups claimed (claim 5).

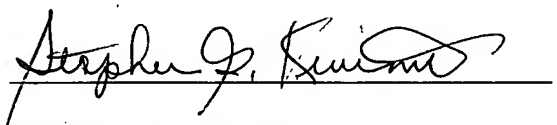
As a result of the October of 2007 Decision, the Director dispelled any question purported by the Examiner of whether there is a space between the stops and contact surfaces in the present application.

For all of these reasons, Appellant asserts that claims 3-5, 9-11, and 13 are patentable over Koneval in view of MacMillan and Hirsch. Accordingly, Koneval in view of MacMillan and Hirsch is not a proper 35 U.S.C. 103(b) combination of references for the claimed invention of claims 3-5, 9-11, and 13. Appellant respectfully requests that the Board reverse these rejections.

CONCLUSION

For the foregoing reasons, it is submitted that the claims on appeal each define subject matter which is novel and would not have been obvious to one of ordinary skill in the art at the time the invention was made. Accordingly, all of the claims on appeal are believed to be entitled to allowance, and a favorable decision to that end is courteously solicited.

Respectfully submitted,



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8. Claims Appendix

1. A powered slider drive interface for opening and closing a vehicle slider panel across a window aperture, comprising:

a slider panel;

a regulator;

at least first and second mechanical stops mounted on the slider panel or the regulator, both first and second stops having a contact surface; and

one or more mechanical stops mounted on the other of the slider panel or the regulator, the one or more stops having third and fourth contact surfaces;

wherein when the regulator is caused to move in a first direction the first stop contact surface is brought into mechanical contact with the third contact surface, thus urging the slider panel into an open position at which there is a space between the second stop contact surface and the fourth stop contact surface;

further wherein when the regulator is caused to move in a second direction, the second stop contact surface is brought into mechanical contact with the fourth contact surface, thus urging the slider panel into a closed position at which there is a space between the first stop contact surface and the third stop contact surface.

2. The powered slider drive interface of claim 1, wherein the first and second mechanical stops are oppositely inclined to the third and fourth stops and the mechanical contacts are selectively non-attached pushing or pulling mechanical contacts, thus allowing the slider panel to freely slide without binding and requiring precise alignment between the regulator and the slider panel.

3. The powered slider drive interface of claim 1, wherein separate drive bumpers are disposed on each of the slider panel stops.

4. The powered slider drive interface of claim 3, wherein the composition of the drive bumpers, contact surfaces, or stops, comprises plastic.

5. The powered slider drive interface of claim 4, wherein the plastic is selected from the group consisting of ethylene propylene diene monomer, flexible polyvinyl chloride, and urethane, or any combination thereof.

6. A powered slider drive interface for opening and closing a vehicle slider panel across a window aperture, comprising:

a driver bracket including at least first and second contact surfaces, the driver bracket being disposed on a regulator; and

a driver receiver including at least two stops, each having a contact surface, the driver receiver being disposed on the slider panel;

wherein when the regulator is caused to move in a first direction, the bracket first contact surface is brought into mechanical contact with the first receiver contact surface, thus urging the slider panel into an open position at which there is a space between the bracket second contact surface and the second receiver contact surface; and

further wherein when the regulator is caused to move in a second direction, the bracket second contact surface is brought into mechanical contact with the second receiver contact surface, thus urging the slider panel into a closed position at which there is a space between the bracket first contact surface and the first receiver contact surface.

7. A powered slider drive assembly for opening and closing a vehicle slider panel across a window aperture, comprising:

a driver bracket including at least a first contact surface and a second contact surface, the driver bracket being disposed on a regulator having a cable attached thereto, and the regulator being disposed on a powered slider frame; and

a driver receiver including at least a first receiver stop and a second receiver stop, each having a contact surface, the driver receiver being disposed on the slider panel that is disposed in slider tracks which are positioned above and below the slider panel;

wherein when a powered slider controller urges the cable into a first direction, the first driver bracket contact surface is brought into mechanical contact with the first receiver contact surface, thus urging the slider panel in the slider tracks and opening at least a portion of the window aperture at which there is a space between the second driver bracket contact surface and the second receiver contact surface;

further wherein when the powered slider controller urges the cable into a second direction, the second driver bracket contact surface is brought into mechanical contact with the second receiver contact surface, thus urging the slider panel in the slider tracks and closing at least a portion of the window aperture at which there is a space between the first driver bracket contact surface and the first receiver contact surface.

8. The powered slider drive assembly of claim 7, wherein mechanical contacts between the bracket contact surfaces and receiver stops contact surfaces are selectively non-attached pushing or pulling mechanical contacts and the driver bracket and driver receiver are oppositely inclined to one another, thus allowing the slider panel to freely slide without binding and requiring precise alignment between the regulator and the slider panel.

9. The powered slider drive assembly of claim 7, wherein separate drive bumpers are disposed on each of the receiver stops.

10. The powered slider drive interface of claim 9, wherein the composition of the drive bumpers, contact surfaces, or receiver stops, comprises plastic.

11. The powered slider drive interface of claim 10, wherein the plastic is selected from the group consisting of ethylene propylene diene monomer, flexible polyvinyl chloride, and urethane, or any combination thereof.

12. A slider panel assembly, comprising:

a slider panel having a horizontal slider panel edge; and

a driver receiver including at least two receiver stops, the receiver stops being spaced apart from each other, each receiver stop having a contact surface, and the driver receiver being disposed on the slider panel and parallel to the horizontal slider panel edge;

wherein when a first external contact surface is brought into mechanical contact with the first receiver stop contact surface there is a space between a second external contact surface and the second receiver contact surface, and when the second external contact surface is brought into mechanical contact with the second receiver contact surface there is a space between the first external contact surface and the first receiver contact surface, thus the slider panel is capable of horizontally opening and closing a window aperture in a vehicle backlite.

13. The slider panel assembly of claim 12, further comprising separate bumpers disposed on each of the receiver stops.

14. A powered slider drive interface for opening and closing a vehicle slider panel across a vehicle backlite window aperture, comprising:

a slider panel;

a regulator;

a first slider panel stop having a first contact surface and a second slider panel stop having a second contact surface, each slider panel stop mounted on the slider panel; and

a regulator stop having a third and a fourth contact surface, the regulator stop mounted on the regulator;

wherein when the regulator is urged horizontally in a first direction, the first stop contact surface is brought into mechanical contact with the third contact surface and there is a space between the second stop contact surface and the fourth stop contact surface, thereby opening a vehicle backlite window aperture;

further wherein when the regulator is urged horizontally in a second direction, the second stop contact surface is brought into mechanical contact with the fourth contact surface and there is a space between the first stop contact surface and the third stop contact surface, thereby closing a vehicle backlite window aperture.

15. The powered slider drive interface of claim 14, further comprising:

a cable attached to the regulator, the regulator being disposed on a powered slider frame; and

upper and lower slider tracks, the upper slider track positioned above the slider panel and the lower slider track positioned below the slider panel, the slider panel being disposed in the slider tracks.

16. The powered slider drive interface of claim 15, further comprising a powered slider controller for urging the cable to horizontally open and close the vehicle backlite window aperture.

9. Evidence Appendix

None

10. Related Proceedings Appendix

None